

AMENDED IN SENATE APRIL 2, 2003

SENATE BILL

No. 102

Introduced by Senator Burton

January 29, 2003

An act to amend Sections 22121, 22134.5, 22720, 24203.5, and 24203.6 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 102, as amended, Burton. State teachers' retirement: service credit.

Under existing law, retirement benefits under the Defined Benefit Program of the State ~~Teachers~~ *Teachers'* Retirement Plan are based on the member's final compensation and years of credited service. Generally, final compensation is the highest average annual compensation earnable by the member during a 3-year period. However, for a member with 25 or more years of credited service, final compensation is the highest average annual compensation earnable by the member during a ~~1-year~~ *one-year* period. Also, a member is entitled to certain increases in the amount of his or her monthly retirement allowance if the member has 30 or more years of credited service. The calculation of credited service under each of these provisions excludes credit for unused sick leave.

This bill would include credit for up to ~~36 days~~ *two-tenths of one year* of unused sick leave in the calculation of credited service for purposes of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 22121 of the Education Code is amended to read:

22121. (a) “Credited service” means service for which the required contributions have been paid.

(b) “Credited service” for the limited purpose of determining benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to ~~36 days~~ *two-tenths of one year* of service granted pursuant to Section 22717.

SEC. 2. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, “final compensation” means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last consecutive 12-month period of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in another retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or a county superintendent of schools.

(2) Service under the other system was not performed concurrently with service under the Defined Benefit Program.

(3) Retirement under the Defined Benefit Program is concurrent with the member’s retirement under the other system.

(d) The compensation earnable for the first position in which California service was credited shall be used when additional

1 compensation earnable is required to accumulate three
2 consecutive years for the purpose of determining final
3 compensation under Section 23805.

4 (e) If a member has received service credit for part-time service
5 performed prior to July 1, 1956, the member's final compensation
6 shall be adjusted for that service in excess of one year by the ratio
7 that part-time service bears to full-time service.

8 (f) The board may specify a different final compensation with
9 respect to disability allowances, disability retirement allowances,
10 family allowances, and children's portions of survivor benefit
11 allowances payable on and after January 1, 1978. The
12 compensation earnable for periods of part-time service shall be
13 adjusted by the ratio that part-time service bears to full-time
14 service.

15 (g) This section shall apply to the following:

16 (1) A member who has 25 or more years of credited service,
17 excluding service credited pursuant to the following:

18 (A) Section 22714.

19 (B) Section 22715.

20 (C) Section 22717, except as provided in subdivision (b) of
21 Section 22121.

22 (D) Section 22826.

23 (2) A nonmember spouse, if the member had 25 or more years
24 of credited service, as calculated in paragraph (1), on the date the
25 parties separated, as established in the judgement or court order
26 pursuant to Section 22652.

27 SEC. 3. Section 22720 of the Education Code is amended to
28 read:

29 22720. The service credited pursuant to Section 22717 may
30 not be used in the determination of final compensation, except as
31 provided in Section 22134.5.

32 SEC. 4. Section 24203.5 of the Education Code is amended
33 to read:

34 24203.5. (a) The percentage of final compensation used to
35 compute the allowance pursuant to Section 24202.5, 24203, or
36 24205 of a member retiring on or after January 1, 1999, who has
37 30 or more years of credited service, shall be increased by
38 two-tenths of 1 percentage point, provided that the sum of the
39 percentage of final compensation used to compute the allowance
40 , including any adjustments for retiring before the normal

1 retirement age, and the additional percentage provided by this
2 section does not exceed 2.40 percent.

3 (b) For purposes of establishing eligibility for the increased
4 allowance pursuant to this section only, credited service shall
5 exclude service credited pursuant to the following:

6 (1) Section 22714.

7 (2) Section 22715.

8 (3) Section 22717, except as provided in subdivision (b) of
9 Section 22121.

10 (4) Section 22717.5.

11 (c) For purposes of establishing eligibility for the increased
12 allowance pursuant to this section only, credited service shall
13 include credited service that a court has ordered be awarded to a
14 nonmember spouse pursuant to Section 22652. A nonmember
15 spouse shall also be eligible for the increased allowance pursuant
16 to this section if the member had 30 or more years of credited
17 service on the date the parties separated, as established in the
18 judgment or court order pursuant to Section 22652.

19 (d) Nonqualified service credit for which contributions
20 pursuant to Section 22826 were made in a lump sum on or after
21 January 1, 2000, or for which the first installment was made on or
22 after January 1, 2000, may not be included in determining the
23 eligibility for an increased allowance pursuant to this section.

24 SEC. 5. Section 24203.6 of the Education Code is amended
25 to read:

26 24203.6. (a) In addition to the amount otherwise payable
27 pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209.5,
28 24210, 24211, and 24212, a member shall receive an increase in
29 the monthly allowance, prior to any modification pursuant to
30 Sections 24300 and 24309, in the amount identified in subdivision
31 (b), if the member meets all of the following criteria:

32 (1) The member retires for service on or after January 1, 2001.

33 (2) Prior to January 1, 2011, the member has 30 or more years
34 of credited service, including any credited service that a court has
35 ordered be awarded to a nonmember spouse pursuant to Section
36 22652, but excluding service credited pursuant to the following:

37 (A) Section 22714.

38 (B) Section 22715.

39 (C) Section 22717, except as provided in subdivision (b) of
40 Section 22121.

(D) Section 22717.5.

(E) Section 22826.

(3) The member is receiving an allowance subject to Section 24203.5.

(b) The amount of the increase in the monthly allowance shall be based on the member's years of credited service at the time of retirement as follows:

30 years of credited service	\$200
31 years of credited service	\$300
32 or more years of credited service	\$400

(c) This section also applies to a nonmember spouse if all of the following conditions are satisfied:

(1) The member is eligible for the allowance increase pursuant to subdivisions (a) and (b) upon his or her retirement for service.

(2) On the date the parties separated, as established in the judgment or court order pursuant to Section 22652, the member had at least 30 years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22715.

(C) Section 22717, except as provided in subdivision (b) of Section 22121.

(D) Section 22717.5.

(E) Section 22826.

(3) The service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652. The amount identified in the schedule in subdivision (b) and payable pursuant to this section, that is based on the service credited during the marriage, shall be divided and paid to the member and the nonmember spouse proportionately according to the respective percentages of the member's service credit that were allocated to the member and the nonmember spouse in the court's order.

(d) The allowance increase provided under this section is not subject to Sections 24415 and 24417, but is subject to Section 22140.

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